IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6760 OF 2005

Indapur Shakari Sakhar
Karkhana Ltd., through its
Managing Director
Uddhav Dattatraya Divekar ..Petitioner.

Vs.

Sonai Krushi Prakriya Karkhana
Ltd. & Ors. ..Respondents.

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Mr.Y.S.Jahagirdar, Senior Advocate with
Mr.S.P.Kadam for the Petitioner.
Mr.S.G.Aney, Senior Advocate with Mr.M.L.Patil for
Respondent No.1.
Mr.V.P.Malwankar, AGP for Respondent Nos.2 to 4.
Mr.P.D.Dalvi for Respondent No.5.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

11th October, 2005.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioner had applied for a licence for Gur Manufacturing Unit under the provisions of the Maharashtra Gur Manufacturers Licensing Order 1979. Under the said order, the licensing authority is the Regional Deputy Director (Sugar) in the Head Quarters District and the District Deputy Registrar in other Districts. The application filed by the Petitioner is now pending before the Regional Joint Director (Sugar), Pune wherein some objections have been filed and which are pending. In other words, as of today no licence has been granted in favour of Respondent No.1.

3. It appears that earlier Respondent No.1 had approached this Court by a writ petition No.5710 of 2004. This Court by an order dated 22nd September, 2004 has issued various directions. The order impugned in the Petition dated 8th June, 2004 was

set aside. Further direction was that the show cause notice issued will be heard by a Secretary of the rank of I.A.S. officer as nominated by the Chief Secretary.

4. By the present Petition, the Petitioner contends that the appeal preferred by Respondent No.1 herein against the order of the Secretary rejecting or refusing to grant licence, subsequent to order of this Court dated 22nd September, 2004, ought not to be heard by the Minister to whom it is presently assigned. The purported appeal was earlier filed before the Chief Minister. That appeal was made over to the Minister for Co-operation who has in turn made it over to the Minister for State Co-operation purporting to be under the business rules. For the view to be taken, it is not necessary for us to go into the proceedings as the earlier decision was at the highest based on a representation. On behalf of Respondent No.1, learned counsel makes a statement that they will withdraw the appeal and make a fresh representation to the State Government, in the matter of policy of the State Government in so far the manufacture of Gur is concerned.

5. In so far as the licence for manufacture as noted earlier, there is the Sugar Control Order, 1966 under which the Regional Deputy Director is the licensing authority before whom the matter is pending. Considering that we direct the licensing authority to dispose of Respondent No.1's pending application after hearing Respondent No.1 and thereafter dispose of the same at any rate within four weeks from a copy of this order being handed over to the licensing authority. It is further made clear that if the order would be adverse, it is always open to Respondent No.1 to prefer an appeal under Rule 1-A in terms of the rules.

6. As in between it appears that some decisions have been taken by authorities other than licensing authority, we make it clear that the licensing authority will decide the Petitioner's application according to law and uninfluenced by any earlier decision taken by any authorities which were not licensing authorities.

7. In the event Respondent No.1 makes a representation to the Government in the matter of

any policy pertaining to manufacture of Gur, that representation to be decided at the earliest at any rate not later than four weeks from today.

8. Rule made absolute accordingly. There shall be no order as to costs.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)